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C O N F I D E N T I A L SECTION 01 OF 02 TBILISI 000751

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TAGS: PGOV PREL GG

SUBJECT: GEORGIA: CRIMINAL PROCEDURE CODE MOVING FORWARD

Classified By: AMBASSADOR JOHN F. TEFFT. REASONS: 1.4 (B) AND (D)

¶1. (C) SUMMARY: On April 6, 2009, Embassy Resident Legal Advisor (RLA) met with Minister of Justice, Zurab Adeishvili, who stated emphatically that the draft Criminal Procedure Code (CPC) will move forward to second and third readings in the Parliament. Adeishvili stated that despite recent opposition protests and other delays, progress on the draft CPC will occur within the next month. Meaningful progress will include review and scrutiny of the draft CPC by the Legal Affairs Committee of Parliament. Once passed by the Parliament, the new CPC will be signed into law by President Saakashvili, but its coming into force will be delayed until July 1, 2010. The Georgians will use this approximately 12-month period to conduct skills development training for legal and law enforcement personnel, carry out public education/awareness programs as well as to fully prepare the Tbilisi courts to administer jury trials, with support and advice from the US Government, namely INL and DOJ/OPDAT. As of July 1, 2010, the new CPC will have full legal force and effect, and as such will rid Georgia of remnants of its Soviet legacy and replace them with a criminal justice system based on Euro-Atlantic standards and democratic principles. End Summary.

May it please the Court . . .

¶2. (C) In his meeting with the Resident Legal Advisor, Adeishvili expressed a keen interest in continued INL and OPDAT support for trial advocacy training that has been underway for the past year in Georgia. In this light, Adeishvili stated that the members of the prosecution service (trained by the OPDAT RLA) and the members of the defense advocate bar (trained by ABA/Rule of Law Initiative (ROLI)) must be prepared to transition effectively to the western-style adversarial court and jury trial system introduced by/mandated under the new CPC. Adeishvili requested additional OPDAT training and support in this regard. The draft CPC introduces many elements of the adversarial criminal procedure model found in the United States. The draft CPC is fully compliant with the European Convention on Human Rights and other European conventions and thus incorporates certain elements from European criminal procedure models. This signals a distinct departure from the former soviet-style inquisitorial system which was rife with corruption, and which provided for a weakened judiciary and an emboldened and unchecked prosecution service. The draft CPC envisions a robust and independent judiciary, and with it, procedural mechanisms that will help prevent the prosecution from exerting undue influence/pressure upon the courts.

¶3. (C) In full agreement with the RLA, Adeishvili readily confirmed that with the introduction of the new CPC, the 500 members of the Georgian Prosecution Service will need to hone their trial advocacy skills. Adeishvili stated that he expected higher ethical standards to be established for the prosecution service. RLA offered future training in this

regard. Adeishvili described current efforts at improving the public perception of the prosecution service. These efforts include Adeishvili's firm support for a progressive "Community Prosecution" model. This model allows for greater police-prosecutor dialogue with members of the community (schools, businesses, youth organizations) to identify discrete areas of local crime, and to fashion prosecutorial remedies/priorities according to the needs of the community. Adeishvili also discussed the introduction of prosecutorial discretion - a largely western, common law criminal justice concept. This will be introduced with the simultaneous piloting of a juvenile diversion program. These are progressive western-based approaches to criminal justice reform that are consistent with international standards and best practices. Adeishvili noted that he has ordered a loosening of pre-trial detention standards in Georgia. Adeishvili commented on his directive for the use of more progressive bail and surety options to secure a person's appearance in court - in lieu of outright and blanket pre-trial detention.

Open the Pod Bay Door, HAL

¶4. (C) Adeishvili indicated that the Prosecution Service for Georgia was in dire need of an automated IT-based case management system. This project is currently being developed by Giorgi Jokhadze, Head of the Prosecution Service Analytical Unit. This system will be used as an IT-mechanism for prosecutors and investigators to communicate electronically with one another, to communicate with the other regional prosecutorial and investigative entities, and to send electronic documents to the courts. Adeishvili

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expressed great dissatisfaction with the current lack of any electronic case management or electronic court filing system within the prosecution service. Adeishvili characterized this dynamic as highly wasteful of time and resources, as investigators must now physically travel into Tbilisi to deliver search warrant affidavits and other court documents. Adeishvili expressed strong support for this proposed IT-based case management system. Adeishvili further stated that despite resistance from a select cadre of prosecutors who have actually complained that their fingers are "too fat to type" on a small keyboard, the development of this important IT model would continue -- hopefully with U.S. support (INL/OPDAT).

No comment, Next Question . . .

¶5. (C) On April 7, 2009, RLA met with Tina Burjaliani, Deputy Minister of Justice. Burjaliani expressed concern over the urgent need to develop a media and PR protocol within the Prosecution Service. Burjaliani stated that Adeishvili is interested in this component and is highly supportive of this program. Burjaliani stated that positive media and public relations are key to providing a much needed level of transparency for the prosecution service. Burjaliani agreed that this will increase public confidence in the work of this important executive agency. RLA and Burjaliani agreed that RLA will invite U.S. media experts and managerial prosecutors (U.S. Attorneys) to Georgia to help the prosecution service design and implement a meaningful public relations/media strategy (spokesperson, press releases, public website development, etc.). Burjaliani expressed frustration with the media in Georgia. In her view, the Georgian media have ignored previous good faith efforts by the prosecution service at communicating objective information on criminal justice matters. Burjaliani stated that the media in Georgia are fixated on scandal, and that when the prosecution service conveys the basic facts relating to ongoing criminal matters, this information is not well-covered or even printed by Georgian media- unless it has some scandalous or sensational component. Burjaliani and RLA discussed the need to centralize media relations within the

prosecution service so that a clear and consistent message and tone would be presented to the media and to the broader public.

¶6. (C) Comment: The unequivocal support from Adeishvili toward draft CPC passage and enactment is, by all current accounts, steadfast. This is vital to securing the critical second and third readings of the draft CPC in the Parliament.

With the much-anticipated passage of the new CPC, this positive momentum will enable further intensive efforts at training prosecutors on the mechanics of the new CPC. RLA will continue to train more comprehensively on trial advocacy. This will also include exercises in developing higher ethical standards for prosecutors, more effective interaction with the media and general public and, most critically, the further development of an independent judiciary - all of which are welcomed by Adeishvili. End Comment.

TEFFT